

## Message Text

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TO ALL DIPLOMATIC POSTS

AMCONSUL MONTREAL

C O N F I D E N T I A L STATE 155110

ICAO MONTREAL, IMCO LONDON, FAO ROME

FOLLOWING TEL SENT ACTION SECSTATE FROM USUN NEW YORK JUNE 30:

QUOTE C O N F I D E N T I A L USUN 2096

FROM: LOS DEL

DEPT. PASS ALL DIPLOMATIC POSTS

E.O. 11652: GDS

TAGS: PLOS

SUBJECT: LOS CONFERENCE - WEEKLY REPORT - CLASSIFIED

SUPPLEMENT WEEK OF JUNE 20 - 24, 1977

1. SUMMARY - UNCERTAINTY AS TO WHAT CHAIRMAN ENGO  
WILL DO WITH THE EVENSEN TEXTS MAKES IT DIFFICULT TO  
PREDICT THE FUTURE COURSE OF THE NEGOTIATIONS. WE MUST  
DEAL BOTH WITH G-77 ATTEMPTS TO TILT THE TEXTS, PARTICULARLY  
ON TECHNOLOGY TRANSFERS, AND WITH ENGO'S DESIRE TO PUT HIS  
OWN IMPRIMATUR ON THEM. COMMITTEE 2 NEOGITATINGS GROUPS  
ARE ACCOMPLISHING LITTLE. CONSIDERATION OF SCIENTIFIC  
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RESEARCH IN COMMITTEE 3 IS SUSPENDED, WHICH IS PROBABLY  
JUST AS WELL GIVEN OUR DISSATISFACTION WITH CHAIRMAN'S  
TEXT PROPOSAL. DISPUTE SETTLEMENT IDSCUSSIONS ARE PROMISING,  
WITH MAIN PROBLEM BEING FISHERIES. THESE ARE PRIVATE  
TALKS OF NEGOTIATING AS A PACKAGE STATUS OF THE ECONOMIC  
ZONE, SCIENTIFIC RESEARCH, AND DISPUTE SETTLEMENT ON FISHERIES.  
END SUMMARY.

2. COMMITTEE I

A. WHILE EVENSEN CONTINUES HIS EFFECTIVE AND CONSTRUCTIVE EFFORTS AT COMPROMISE, IT IS NOT NOW CLEAR WHAT CHANGES CHAIRMAN ENGO MAY MAKE TO EVENSEN'S TEXT 2. NOR IS IT CLEAR HOW CERTAIN, OUTSTANDING COMMITTEE I ISSUES ARE TO BE RESOLVED DURING THE REMAINING THREE WEEKS OF THE SESSION. AN UNDESIRABLE EFFORT BY CHRIS PINTO (SRI LANKA) TO OPEN UP MOST OF THE COMMITTEE I ISSUES IN A SMALL NEGOTIATING GROUP, DOES NOT APPEAR LIKELY TO GET OFF THE GROUND. THE G-77 HAS NOT YET CAUCUSED ON EVENSEN'S THIRD REVISION TO THE SYSTEM OF EXPLOITATION. WHEN IT DOES NOT MEET THIS WEEK ITS MEMBERS ARE LIKELY TO REMAIN DIVIDED. THE ONLY POSSIBLE UNIFIED POSITION WOULD BE REJECTION OF THE EVENSEN TEXT.

B. DISCUSSION OF THE EVENSEN DRAFT COMPROMISE ON INSTITUTIONAL QUESTIONS CONTINUES IN A RELATIVELY CONSTRUCTIVE FASHION. EVENSEN'S ARTFUL FORMULATION FOR ARTICLE 27, DEALING WITH COMPOSITION OF THE COUNCIL, HAS WITHSTOOD CRITICISM FROM BOTH THE G-77 AND THE DEVELOPED COUNTRIES. A US AMENDMENT TO FACILITATE COUNCIL ACTION ON CONTRACT APPROVALS HAS A CHANCE OF SUCCESS BY ITS INCLUSION IN EITHER ARTICLE 27 OR 28.

C. UNCERTAINTY ABOUT THE ORGANIZATION OF THE  
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WORK OF THE CONFERENCE DURING THE LAST THREE WEEKS OF THE SESSION IS, HOWEVER, AFFECTING COMMITTEE I. UNCERTAINTY IS COMPOUNDED BY THE FACT THAT CHAIRMAN ENGO'S PLAN REGARDING THE EVENSEN TEXT ARE NOT YET CLEAR. IN PRIVATE CONSULTATIONS ENGO SEEKS ADVICE ON CHANGES TO THE EVENSEN FORMULATIONS. HE HAS SOUGHT PARTICULARLY THE COUNSEL OF KOH (SINGAPORE), RATTRAY (JAMAICA), JAGOTA (INDIA) AND ORREGO (CHILE). THE FIRST THREE OF THESE INFORMAL ADVISORS STRONGLY FAVOR CHANGES TO THE EVENSEN TEXT TO MANDATE THE TRANSFER OF TECHNOLOGY BY STATES AND CONSORTIA TO THE ENTERPRISES. ENGO HAS BEEN WARNED REPEATEDLY THAT INCLUSION OF COMPLUSORY TECHNOLOGY TRANSFER COULD WRECK THE CAREFUL EVENSEN COMPROMISE. NEVERTHELESS, HE PERSISTS IN EXPLORING THESE IDEAS.

D. A NEGOTIATING GROUP OF PRODUCERS AND CONSUMERS, CHAIRED BY ENGO HAS BEGUN WORK ON A COMPROMISE OF THE ARTICLE 9(2) PRODUCTION CONTROL ISSUES. ITS INITIAL EFFORT HAS BEEN TO GET COMMON AGREEMENT ON THE MEANING OF THE EVENSEN TEXT AND TO BEGIN WORK ON AN AGREED FRAMEWORK FOR APPLYING PRODUCTION CONTROLS WITHOUT REGARD TO THE ACTUAL DEGREE OF CONTROL.

E. AN EFFORT, ALSO INITIATED BY ENGO, TO NEGOTIATE AN AGREED SET OF FINANCIAL ARRANGEMENT (ANNEX I, PARAGRAPH 9(D)) IS PROGRESSING SLOWLY. THE INITIAL TEXT, PREPARED BY THE SECRETARIAT, TO BE PRESENTED TO THIS GROUP IS NOT

ACCEPTABLE.

F. IT IS NOT NOW CLEAR HOW OR WHEN COMMITTEE I DISPUTES  
SETTLEMENT ISSUES ARE TO BE DISCUSSED.

### 3. COMMITTEE II

A. THE COMMITTEE CONTINUED DURING THE WEEK TO FOLLOW  
PROCEDURES AIMED AT EXPLORING POSSIBLE COMPROMISES ON OUT-  
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STANDING ISSUES. MONDAY AFTERNOON WAS DEVOTED TO THE SMALL  
CONSULTING GROUP ON DELIMITATION. NO PROGRESS WAS MADE IN  
BREAKING THE DEADLOCK BETWEEN THOSE STATES WISHING TO GIVE  
PRIMACY TO AN EQUIDISTANCE TEST AND THOSE PREFERRED TO USE  
EQUITABLE PRINCIPLES. TUESDAY AND WEDNESDAY WERE  
DEVOTED TO NEGOTIATING GROUPS OF THE WHOLE, MEETING IN THE  
SAME FORMAT AS LAST SESSION. THESE GROUPS, DEALING WITH THE  
LEGAL STATUS OF THE ECONOMIC ZONE, THE DEFINITION OF THE  
MARGIN AND REVENUE SHARING, AND DELIMITATION MET SEQUENTIALLY  
TO RECEIVE THE REPORTS OF THE VICE-CHAIRMAN AND THE COMMENTS  
OF DELEGATIONS. THE NEGOTIATING GROUP ON THE STATUS OF THE  
ECONOMIC ZONE REFLECTED THE PRESENT STAND-OFF BETWEEN THE  
COASTAL STATES, ON THE ONE HAND, AND THE LL/GDS AND THE MARI-  
TIMES ON THE OTHER. THE USSR STRONGLY REJECTED THE  
SUI GENERIS CONCEPT. THERE WAS STRONG TERRITORIALIST REAC-  
TION TO THE US INTERVENTION, THE PREVIOUS WEEK ON HIGH SEAS  
STATES.M

B. ON THURSDAY AND FRIDAY, DISCUSSIONS CONTINUED ON THE  
CONTINENTAL MARGIN AND THE EEZ IN SMALL  
CONSULTING GROUPS. MARGIN DISCUSSIONS FOCUSED ON THE  
FEASIBILITY OF THE IRISH FORMULA WITH LL/GDS AND JAPAN ON  
THE ATTACK; CANADA, IRELAND, AND ARGENTINA DEFENDING. US  
DID NOT PARTAKE OF DEBATE ON THIS PORTION OF THE GE-  
NERAL ISSUES, HAVING PREVIOUSLY COMMENTED.

C. IN THE EEZ GROUP, PERU SUGGESTED APPROACHING THE  
ISSUE BY SPLITTING THE HIGH SEAS CHAPTER (ARTICLES 76-103)  
INTO THREE NEW CHAPTERS CONTAINING: (1) THOSE PROVISIONS  
APPLYING ONLY TO THE HIGH SEAS; (2) THOSE APPLYING ONLY  
IN THE EEZ; AND (3) THOSE APPLYING TO BOTH. THIS APPROACH  
WAS OPPOSED BY THE US, USSR AND UK, ON THE GROUNDS THAT  
IT WOULD REOPEN ISSUES ALREADY SETTLED IN PRESENT  
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FORM OF ARTICLE 46(2). THE GROUP THEN MOVED TO A DETAILED  
DISCUSSION OF ARTICLE 44 DURING WHICH PERU INDICATED  
THAT IT COULD ACCEPT ARTICLE 44 WITH AN  
EXPRESS PROVISION THAT COASTAL STATE JURISDICTION SHOULD

BE EXERCISED IN ACCORDANCE WITH PROVISIONS OF THE CONVENTION (SIMILAR TO EVENSEN TEXT), BUT ONLY ON CONDITION THAT ARTICLE 46 AND 75 BE LEFT UNTOUCHED.

D. THE REMAINDER OF THE WEEK DEVOTED TO DISCUSSIONS OF MISCELLANEOUS ARTICLES IN INFORMAL SESSION. THIS WAS PRECEDED, HOWEVER, BY A FORMAL MEETING DEVOTED TO A LONG PROCEDURAL WRANGLE OVER COLOMBIAN PROPOSAL REGARDING THE CONTINENTAL MARGIN THAT THE SECRETARIAT PREPARE A CHART SHOWING THE 200 MILE LIMIT, THE 500 METER ISOBATH AND LINE REPRESENTING THE APPLICATION OF THE IRISH FORMULA. THIS PROPOSITION WAS REFERRED TO A WORKING GROUP CONSISTING OF THE DEPUTY SECRETARY-GENERAL AND THE DELEGATES FROM AUSTRIA AND COLOMBIA TO WORK OUT THE TERMS OF REFERENCE FOR SUCH A STUDY.

E. THE WEEK WAS MARKED BY SIGNIFICANT LACK OF REAL NEGOTIATION ON MOST ISSUES. IT APPEARED THAT THE CHAIR WAS TRYING TO RUN OUT THE DISCUSSION WHILE LOOKING FOR NEW APPROACHES. WHILE THE GROUP OF 21 CONTINUED TO ATTEMPT TO DEAL WITH THE SUBJECT OF LL/GDS ACCESS TO LIVING RESOURCES IN THE ECONOMIC ZONE, NO PROGRESS WAS APPARENT.

F. BOTH SPAIN AND MOROCCO ARE PRESSING FOR FORMATION OF A NEGOTIATING GROUP ON STRAITS, WHICH WE ARE RESISTING. OUR PRIVATE MEETINGS WITH SPAIN CONTINUE TO BE DEADLOCKED OVER THIS RESISTENCE TO OVERFLIGHT, BUT THERE IS SOME HINT THAT THEY MAY DROP THIS. WE ARE SURPRISED AT MOROCCAN MOVE IN VIEW OF PREVIOUS COMMENTS IN RABAT. MOROCCAN STRAIT STATES AND MARITIME STATES ARE CLOSE TO AGREEMENT, WITH USDEL RUNNING INTERFERENCE BETWEEN MUTUALLY REINFORCING JAPANESE AND MALAYSIAN MISUNDERSTANDINGS. PRIVATE NEGOTIATIONS  
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WITH INDONESIA ON ARCHIPELAGOS REACHING FINAL STAGE, WITH APPARENT MAIN REMAINING ISSUES BEING CIVIL AVIATION AND IMCO APPROVAL OF LANES.

#### 4. COMMITTEE III

A. SCIENTIFIC RESEARCH - CHAIRMAN YANKOV HELD ONE MEETING WITH ABOUT 25 HEADS OF DELEGATION TO DISCUSS ARTICLE 60 ON BASIC COASTAL STATE RIGHTS REGARDING SCIENTIFIC RESEARCH IN THE ECONOMIC ZONE AND ON THE CONTINENTAL SHELF. YANKOV HAD INTENDED TO FOCUS DISCUSSION ON HIS COASTAL-ORIENTED TEST PROPOSAL BUT, BECAUSE OF INSISTENCE OF US, OPENED MEETING WITH REQUEST FOR COMMENTS ON WHICH PROPOSAL TO USE AS A BASIS FOR NEGOTIATIONS. DISCUSSION WAS INCONCLUSIVE WITH A NUMBER OF DELEGATIONS WANTING TO DISCUSS A WIDE RANGE OF PROPOSALS.

YANKOV SCHEDULED NO FURTHER MEETINGS ON SCIENTIFIC RE-

SEACH.

B. MARINE POLLUTION - COMMITTEE II AND III BOTH DISCUSSED  
ISSUE OF RESTRICTION ON COASTAL STATE RIGHTS TO ESTABLISH  
VESSELS POLLUTION CONTROL REGULATIONS IN THE TERRITORIAL  
SEA. MOST DELEGATIONS SUPPORTED RESTRICTIONS ELIMINATING  
ANY LEGISLATIVE POWER OVER THE DESIGN, CONSTITUTION MANNING  
AND EQUIPMENT OF VESSELS. HOWEVER, A NUMBER DID SUPPORT AN  
AMENDMENT TO DELETE RSNT RESTRICTION ON OTHER MATTERS RE-  
GULATED BY GENERALLY ACCEPTED INTERNATIONAL STANDARDS.  
US CONTINUED TO ATTEMPT TO ELIMINATE AS MANY RESTRICTIONS  
AS POSSIBLE BUT MARITIME STATES REMAIN UNITED. A NUMBER  
OF DEVELOPING COUNTRIES WITH MARITIME ASPIRATIONS SUPPORT  
THE RESTRICTIONS. DISCUSSION ON OTHER ISSUES HAS SHOWN  
CONSIDERABLE SUPPORT FOR RSNT. VERY FEW PROPOSED AMENDMENTS  
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HAVE RECEIVED WIDE SUPPORT. CONSEQUENTLY, IT SEEMS LIKELY THAT  
FEW CHANGES WILL BE MADE.

#### 5. PART IV (DISPUTE SETTLEMENT)

A. THE EXPECTED ONSLAUGHT ON ARTICLE 18 (RELATING TO  
THREE OPTIONAL EXCEPTIONS; SEA BOUNDARIES, MILITARY ACTIVITIES  
AND THE PRIORITY OF SECURITY COUNCIL IN CASE OF CONFLICT  
OF JURISDICTIONS) WAS BLUNTED BY PRESIDENT AMERASINGHE'S  
AMENDMENTS TO THE THREE CRUCIAL SUBPARAGRAPHS.

B. THE SOVIET UNION WAS LESS VIRULENT IN OPPOSITION TO  
THE PROVISIO 18(1)(A) AS IT WAS PLEASED BY THE  
PRESIDENT'S AMENDMENT THAT DELIMITATION PROBLEMS WITH  
ITS NEIGHBORS WILL NOT BE SUBJECT TO CDS INsofar AS DE-  
LIMITATIONS CONCERNING OVER LAND OR INSULAR TERRITORY ARE  
CONCERNED (OF PARTICULAR IMPORTANCE TO THEM IS THE DISPUTE  
WITH JAPAN OVER THE KURILES), BUT IT REMAINS UNCLEAR  
WHETHER TH USSR CAN ACCEPT THE ARTICLE AS AMENDED.

C. ALTHOUGH MANY MEMBERS OF THE GROUP OF 77 SUPPORTED  
THE DELETION OF THE MILITARY EXCEPTION IN 18(1)(A), THE PRE-  
SIDENT'S PROPOSAL TO PROVIDE EQUAL TREATMENT FOR SOME  
LAW ENFORCEMENT ACTIVITIES OF COASTAL STATES PACIFIED SOME  
OF THEM..IT WAS EXPLAINED BY THE US AND ACCEPTED BY THE  
PRESIDENT, THAT SUCH LAW ENFORCEMENT ACTIVITIES WILL BE  
SUBJECT TO THE EXCEPTIONS OF ARTICLE 17; FOR INSTANCE, THE  
NEW 18(1)(B) EXCLUSION OF ENFORCEMENT ACTIVITY WILL NOT  
APPLY TO LAW FORCEMENT ACTIVITIES RELATED TO THE MARINE  
ENVIRONMENT, AS THEY ARE EXCEPTED UNDER 17(1)(C), AND  
THESE ACTIVITIES WILL REMAIN SUBJECT TO INTERNATIONAL  
ADJUDICATION.

D. IN ORDER TO SAVE 18(1)(C), THE PRESIDENT PROPOSED THAT  
THE SECURITY COUNCIL MAY RETAIN CONTROL OVER A MATTER BY

MERELY RETAINING IT ON THE AGENDA. ON THE OTHER HAND, BY  
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A PROCEDURAL DECISION, NOT SUBJECT TO VETO, THE COUNCIL  
CAN REMOVE A MATTER FROM ITS AGENDA, ALLOWING THE STATES  
CONCERNED TO PROCEED UNDER PART IV OF THE LOS CONVENTION.  
IF THERE IS NO DANGER OF VETO, THE COUNCIL CAN RETAIN THE  
MATTER ON THE AGENDA AND CALL UPON THE PARTIES TO REFER  
LEGAL ISSUES INVOLVED IN THE DISPUTE TO THE APPROPRIATE  
JURISDICTION UNDER THE LOS CONVENTION. AS IT IS NOT LIKELY  
THAT THE COUNCIL WILL REMOVE AN IMPORTANT MATTER FROM ITS  
AGENDA SIMPLY TO ALLOW PROCEEDINGS ELSEWHERE, THERE IS LITTLE  
DANGER FOR CONCURRENT PROCEEDINGS ON IMPORTANT ASPECTS OF  
SUCH ISSUES AS THE MIDDLE EAST. WE HAVE REMAINED IN  
TOUCH WITH BOTH THE ISRAELI AND EGYPTIAN DELEGATES ON THIS.

E. WHILE THE DISCUSSION ON ARTICLE 18 IS NOT YET  
OVER, THE AMENDMENTS BY THE PRESIDENT ARE LIKELY TO BE RE-  
TAINED AS THE COMPROMISE SOLUTION FOR ALL THREE PRINCIPAL  
ISSUES, SUBJECT TO POSSIBLE FURTHER SOVIET PRESSURE ON BOUN-  
DARIES. YOUNG UNQUOTE CHRISTOPHER

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## Message Attributes

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